

March 27, 2006

**PINELANDS COMMISSION**

**Pinelands Comprehensive Management Plan**

**Map Status; Height Limitations; Pinelands Management Areas; Parkway Overlay District**

**Adopted Amendments: N.J.A.C. 7:50-5.3, 5.4, 5.11, 5.12 and 5.13**

**Adopted New Rule: N.J.A.C. 7:50-5.35**

Proposed: January 3, 2006 at 38 N.J.R. 49(a)

Adopted: April 6, 2006 by the New Jersey Pinelands Commission,  
John C. Stokes, Executive Director

Filed: May 25, 2006 **with technical changes** not requiring additional public notice

Authorized by: New Jersey Pinelands Commission.

Authority: N.J.S.A. 13:18A-6j.

Effective Date: June 19, 2006

Expiration Date: Exempt.

**Summary** of Public Comments and Agency Responses:

The New Jersey Pinelands Commission (Commission) is adopting amendments to subchapter 5, Minimum Standards for Land Uses and Intensities, of the Pinelands Comprehensive Management Plan (CMP). The amendments and new rule were proposed on January 3, 2006 at 38 N.J.R. 49(a). The adopted amendments and new rule provide the Commission with the general ability to

establish overlay districts in the Pinelands as a means of recognizing and addressing special resources and existing uses. The amendments and new rule further establish the Parkway Overlay District, encompassing the existing Garden State Parkway right of way.

In association with publication of the proposed amendments and new rule in the January 3, 2006 issue of the New Jersey Register, the Pinelands Commission transmitted the proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment. Additionally, the Pinelands Commission:

- Sent notice of the public hearing to all persons and organizations which subscribe to the Commission's public hearing registry;
- Placed advertisements of the public hearing in the five official newspapers of the Commission, as well as on the Commission's own web page;
- Submitted the proposed amendments and new rule to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex;
- Published a copy of the proposed amendments on its web page at [www.nj.gov/pinelands](http://www.nj.gov/pinelands); and
- Distributed press releases concerning the proposed amendments and new rule to the news media

A formal public hearing was held before the Commission staff on February 15, 2006. Three people attended the hearing and oral testimony on the rule proposal was provided by one individual. The hearing officer's recommendations are in accordance with the public comment and agency responses and agency-initiated changes below.

Oral comments were recorded on magnetic tape which is on file at the Commission's office at 15 Springfield Road, New Lisbon, New Jersey. The record of this rulemaking is available for inspection in accordance with applicable law by contacting:

Betsy Piner

Pinelands Commission

P.O. Box 7

New Lisbon, NJ 08064.

**Summary of Public Comments and Agency Responses:**

The Commission accepted written comments by regular mail, facsimile or e-mail on the January 3, 2006 proposal through March 4, 2006.

The following persons submitted written comments:

1. Maher, Joseph M.; Department Head, Division of Planning, Department of Regional Planning and Development, Atlantic County
2. Montgomery, Carleton; Executive Director, Pinelands Preservation Alliance

The following person submitted oral comments only:

3. Bruce Connor; Project Manager, New Jersey Turnpike Authority.

The Commission's response to the comments is set forth below.

1. **COMMENT:** General support for the recognition of the Garden State Parkway through establishment of the Parkway Overlay District was expressed by three parties. (1, 2, 3)

**RESPONSE:** The Commission appreciates the support of these parties.

2. **COMMENT:** One party objected to the amendments at N.J.A.C. 7:50-5.11 which provide the Commission with the general ability to establish overlay districts in the Pinelands, stating that the amendments are overly broad and could therefore lead to inappropriate requests for additional overlay districts in the future. A suggestion was made that the Commission limit its overlay district authorization to "highways bordering the Pinelands Area or the Pinelands Preservation Area". (2)

**RESPONSE:** The Commission does not agree that such a limitation is warranted. The use of overlay districts may or may not prove to be a useful and appropriate means of recognizing special uses and resources or unique areas of the Pinelands. In any case, the establishment of any future overlay district in the Pinelands will require rulemaking on the Commission's part, thus providing an open and public process which will facilitate a full evaluation by all interested parties.

Nevertheless, the Commission does believe the amendments at N.J.A.C. 7:50-5.12 and 5.13 would benefit from additional clarification as to the Commission's intent. The sole purpose of the amendments and new rule being adopted is to establish the Parkway Overlay District in recognition of a unique existing use. The establishment of additional overlay districts is neither authorized by the amendments nor contemplated by the Commission at this time. Therefore, N.J.A.C. 7:50-5.12(b) and the titles to N.J.A.C. 7:50-5.12 and 5.13 are being revised to refer to the Parkway Overlay District rather than to Overlay Districts in general. It is not the Commission's intent to completely foreclose the possibility of additional overlay districts in the future; however, the rulemaking action being taken at this time involves the establishment of only the Parkway Overlay District.

3. **COMMENT:** One party indicated support for N.J.A.C. 7:50-5.13 which establishes the boundaries of the new Parkway Overlay District as the highway right of way existing as of the effective date of these amendments, thereby limiting the impact of the overlay district to an existing, known extent. (2)

**RESPONSE:** The Commission agrees with the commenter and appreciates the expression of support.

4. **COMMENT:** One party objected to N.J.A.C. 7:50-5.35(a)2 which allows for the improvement, expansion, repair, reconstruction and maintenance of existing interchanges within the Parkway Overlay District but does not permit the development of entirely new interchanges. It was suggested that a prohibition on new interchanges does not appropriately recognize existing or future needs created

by the Comprehensive Management Plan, particularly with respect to the designation and development of Regional Growth Areas. The commenter further contends that a prohibition on new interchanges will negatively impact communities outside the Pinelands Area as well and suggests that the Commission reconsider the amendments so as to better complement the New Jersey State Plan. The need for one new interchange in particular, between mileposts 30 and 36 in Egg Harbor Township, is specifically noted. The commenter indicates that there has been recent dialogue between Atlantic County and the New Jersey Turnpike Authority on the County's request for this particular interchange. Finally, the commenter suggests that the amendments be revised to allow for new Parkway interchanges subject to a full review by the Commission of potential impacts to environmental resources within the context of the Comprehensive Management Plan. (1)

**RESPONSE:** The fact that the amendments and new rule now being adopted do not permit new interchanges within the Parkway Overlay District was based on a series of discussions with the New Jersey Turnpike Authority prior to and during the course of development of the amendments and new rules. The Turnpike Authority then, and more recently at the February 15, 2006 public hearing on these amendments, confirmed that it had no plans for new interchanges in the Pinelands, including in that portion of Egg Harbor Township cited by the commenter.

The list of permitted uses within the Parkway Overlay District set forth at N.J.A.C. 7:50-5.35 should not, however, be interpreted as an outright or permanent prohibition on new interchanges within the Pinelands. If a new interchange is deemed necessary by the Turnpike Authority and the Commission likewise believes it is warranted and able to be developed in a manner consistent with the Comprehensive Management Plan, an amendment to the Comprehensive Management Plan addressing that particular interchange can be considered at that time.

### **Federal Standards Statement**

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals which the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The adopted amendments and new rule were designed to meet those goals by recognizing an important existing use in the Pinelands (the Garden State Parkway) in a manner which ensures that the Pinelands land use program will not be adversely affected.

There are no other Federal requirements which apply to the subject matter of the adopted amendments and new rule.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks “\*[thus]\*”.):

7:50-5.12 Pinelands Management Areas and **\*Parkway\*** Overlay District\*[s]\* established

- (a) (No change.)
- (b) The following Pinelands Overlay District\*[s are]\* **\*is\*** hereby established:
  - 1. Parkway Overlay District.

7:50-5.13 Goals and objectives of Pinelands Management Areas and **\*Parkway\*** Overlay District\*[s]\*

- (a)-(j) (No change.)
- (i) The Parkway Overlay District consists of a limited access highway and constitutes an existing transportation corridor established prior to the adoption of this Plan. The boundaries of the Parkway Overlay District coincide with the existing highway right of way as of (the effective date of these amendments). This disturbed area is a specially managed area of the State which is appropriate for continued use as a roadway and for

development of other important public service infrastructure. The Parkway Overlay District includes lands located in the Preservation Area District, Forest Area, Rural Development Area, Regional Growth Area, Military and Federal Installation Area and two Pinelands Villages.